

Bad Check Diversion Unit

Handbook for Businesses



Clark County District Attorney's Office

What is a Bad Check?

A bad check is a check that is not honored when presented at the bank. The bank may indicate that the check wasn't honored due to "insufficient funds", "account closed", "stop payment" or some other reason. If the bank returns the check to you or informs you that the check wasn't honored, then you can submit the check or a bank certified copy of the check to our unit for review, and we will identify whether or not we can help you obtain restitution. If we are unable to help you because of the nature of the circumstances surrounding your case, we will return the check with an explanation.

Before a check can even be considered for prosecution, it must have been deposited with your bank, even if you suspect the check will not clear. Also, the law requires that you first send a written notice by certified mail to the person who wrote and passed the bad check to you or your business.

We cannot prosecute any of the following types of checks:

- Checks that do not show payee, date, amount or signature.
- Checks that are pre-dated or post-dated, or where an agreement was made to hold the check for later payment.
- Checks, other than to a licensed gaming establishment, for which you have later accepted partial payment.
- Checks for which identification of the check writer and person accepting the check cannot be ascertained.
- Checks drawn from out-of-state banks under \$250.00.
- Checks not written or passed within Clark County.
- Checks involving an extension of credit, other than to a licensed gaming establishment.
- Checks that are altered or suspected of being forgeries or counterfeit.
- Checks written for less than \$25.00.
- Two-party checks.

Establishing Your Policies and Procedures for Accepting Checks

It is important that you or your company establish a set policy and a list of procedures to be followed by all employees when accepting checks. Then it is vital to train and stress to your employees the importance of following these policies and procedures. Your policies should include the following:

1. Post dated checks will not be accepted – the District Attorney's office will not be able to help you by prosecuting if it is not honored by the bank.
2. Do not accept pre-signed checks.
3. Do not accept two party checks – again, the DA's office will not be able to help you by prosecuting if it is not honored by the bank.
4. Always require a government issued picture ID for cashing checks. Write down the ID information on the check.

5. Take a picture of individuals cashing checks (optional but very effective). This provides excellent evidence for court.
6. Get a thumb print on the front or back of the check (optional but also very effective). There are fingerprint kits available that do not leave black ink on the fingers.
7. Do not accept another check from a bad check writer unless the first bad check has been cleared and paid off.

Working with Customers

Everyone is concerned about not offending customers. Therefore it is important to teach your employees how to follow your new procedures in an effective, but non-offensive manner. Good customers do not mind policies and procedures which demonstrate that the merchant is careful and diligent about all money matters. Asking for ID or getting a thumb print shows that you are careful about who is handing you a check, and doing this will help prevent fraud and bad checks. When customers ask why you are changing your policies, tell them that you are doing this to protect both of you from stolen checks being cashed or against outright identity theft. Good customers will understand and appreciate this.

How to Decline a Check Diplomatically

The easiest way to decline a check that is questionable in your mind is to leave the customer for a moment, then come back and tell the customer in a matter-of-fact manner with a pleasant demeanor (just as you would for a declined credit card) that the check has been declined, and that you can accept payment by cash, debit card or credit card (whatever types of payment you accept). If the customer becomes upset about this, you probably have made a good decision in not accepting the check.

Types of Government Issued ID

Driver's Licenses

Instruct your employees to compare photos on the license with the check writer's real appearance. Hair color and weight can always change, but one's sex and race are generally easy to determine. Age, which can be determined from the birth date, is also an important identification factor. Is the Driver's License address the same as the address on the check? If not, verify and record the correct address. Is the Driver's License current and valid? Do not accept an expired license as valid identification.

Work Cards (Gaming or Non-Gaming)

Work Cards contain photographs, and the fingerprints of the person with the card are on file. Therefore, this is adequate identification for the Bad Check Unit if the work card number is written on the check and the photograph has been checked against the person handing you the check. Making a copy of the ID would be very useful.

Passports

Passports are good ID for those from non-United States residents if the check is written on a Nevada bank account. Some visitors come to Las Vegas so often that they set up local bank accounts.

Nevada State I.D. Cards

These also contain photographs, but are easily attainable. They should never be relied upon as the sole means of identifying a check writer.

Checklist for Cashiers

1. Look at the Check !!!
2. Be suspicious of checks that have a low check number, no printed check number or no printed name. Nearly 90% of bad checks are drawn on accounts less than one year old. If check numbers are handwritten or lower than 125, exercise caution.
3. Checks must be dated the same day they are given. Postdated checks cannot, and will not, be prosecuted. You take them at your own risk.
4. Do not accept pre-signed checks. Make sure all checks are signed in your presence. It is vital that the signature be legible. If not, ask the individual to print his/her name above the signature.
5. Ask for government issued picture ID. This is essential. All signatures should be compared with the signature on a valid driver's license or other identification. Write down the number of the ID yourself. Do not allow the issuer to do this.
6. Make sure that the numeric dollar amount matches the written dollar amount. A check for \$16.25 should say in words: "Sixteen and twenty-five/100 dollars" or "Sixteen and 25/100 dollars." Banks will not honor checks with discrepancies.
7. Make sure the check writer does not write their Driver's License number, or other photo ID number, on the check. Ask for the ID card and do it yourself. This protects against a false number being provided. Also, the presence of your handwriting is another way for you to identify the check at a later date, as required for prosecution.
8. Require a permanent street address – not a P.O. Box number. Do not take counter checks without an address, "starter checks", or new account checks, without extra precautions.
9. We urge you not to accept checks from persons who live and/or bank out of state. It can be difficult obtaining bank records from other states. In addition, extradition from other states is extremely expensive, and sometimes declined in cases, such as bad checks, where public safety is not an issue.

10. If you know that the check writer has given you or your business a bad check before, do not accept another one unless the former bad check has been cleared and paid off.

Some Tips for Detecting Fraudulent Checks

- Check the finish on the black magnetic computer numbers on the bottom. The magnetic ink is very dull and never shiny.
- Look for at least one perforated edge on the check. All checks, except some government or computer-produced checks, should have a perforated edge.
- Check for any words or numerals that appear to have been altered. Look for different hand writing, different color ink, or any other suspicious differences. If you find discrepancies which are of concern, you should decline the check.
- Look for changes or additions to the name of the payee. If the color, density or writing of the name appears different, there may have been an alteration. If you are cashing a check for a customer and there are two payees listed (Example: "Paul Jones or John Smith"), and the second name appears different in color, density or writing, there may have been an alteration.

The First Steps to Take if You Get a Bad Check

In order to submit a check to our office for collection or prosecution, the law requires that you first send written notice to the person who wrote and passed the bad check to you or your business. This notice must be sent by certified mail. The notice should be sent to the address printed on the check, or at the last known address, and should inform the maker that the check was dishonored. Retain a copy of the notice for future use. Sample form letters are printed at the back of this booklet.

If the maker fails to redeem the check within ten (10) days after the written notice is mailed, the law presumes the check was passed with the intent to defraud. If you have not been paid for the check by the end of this ten-day period, you may request that this office commence a procedure to obtain restitution or prosecute the writer of the check. This is done by completing a Bad Check Complaint Form (one of these is in your packet). Attach the original check returned by the bank, a copy of your 10-day notice sent to the check writer with the certified mail receipt. Later, when you obtain a copy of your bank statement showing actual costs charged for the returned item, you should send this to our office, too.

If the offender contacts you after you have sent the bad check to our office and wants to pay off the check, you must refer him to the Clark County District Attorney's Office. Do not accept full or partial payment on the face value of the check. Doing this will end all efforts by our office to obtain restitution on your behalf.

To redeem the check, the offender must contact our office and pay off the check and fees completely. We will send you a restitution check by mail within two weeks after the bad check restitution and fees have been paid to our office.

If your testimony is required in Court, we will notify you of the time and place, by Summons. If you do not appear when required, our ability to pursue the matter any further on your behalf probably will end.

What You Must Send the Bad Check Unit

1. A completed complaint form for each check submitted.
2. A copy of the 10-day letter that you sent to the offender with the receipt for certified mail.
3. The original check(s) returned by the bank or bank certified copies.

Failure to provide all of the items listed above, necessary for processing the check, will require their return to you. Please take care to compile all of the items necessary for collection and/or prosecution prior to submission.

Do NOT send bad checks to the police department. All local law enforcement agencies are inundated with work. The Clark County District Attorney's Office has worked with local law enforcement agencies to by-pass them on matters of insufficient funds checks so that their time may be more appropriately devoted to other areas of public safety.

What Actions Does the District Attorney's Office Take?

The job of the District Attorney's Criminal Division is criminal prosecution. However, the Nevada Statutes allow us to set up a Bad Check Diversion Unit in lieu of that prosecution if so desired by the offender. The primary goal of the Bad Check Diversion Unit is to expedite the process of obtaining 100% victim restitution. "Restitution" refers to 100% of the face value of the check(s), in addition to any "returned item" charges assessed to the victim's bank account and certified mail expenses incurred when attempting to notify the check writer. The maximum amount for these additional items is \$25.00 per check. The offender shall also be required to pay an administrative fee to the District Attorney's Office as provided by law.

If your bad check case is accepted, the District Attorney's office will send out two separate letters urging the issuer to pay restitution and warning them of possible criminal charges. If the offender still does not contact our office and does not arrange to pay restitution, then we will screen your case for possible criminal prosecution.

Prosecution

Only the District Attorney's Office can determine whether the evidence is sufficient to file criminal charges, or whether the circumstances merit the expenditure of the resources necessary to pursue prosecution.

When a check is accepted for prosecution by our bad check unit, you will be notified in writing of this fact. If there is little chance of obtaining restitution from the check writer due to prior criminal history, unknown whereabouts, or high volume of

additional complaints, the District Attorney may pursue immediate prosecution. If this occurs, you will be advised in writing that a complaint has been filed, and an arrest warrant issued for the maker. If the District Attorney's Office secures a conviction, we will ask for restitution on your behalf as part of the sentence.

Please remember that the Office of the District Attorney and, ultimately, the Judge, have the sole right to decide how a case is to be handled. If the check cannot be collected, we will return it to you with an explanation.

If we are able to collect from the offender, all payments will be applied in the order shown below.

1. Administrative Fees as provided by law.
2. Victim Restitution (if there is more than one victim, payments will be prorated accordingly.)
3. Actual costs of the victim including bank charges and charges for certified mail up to \$25 per check.

Other Things You Can Do to Prevent Bad Check Fraud

- If you are going to utilize our services, you must display a sign in your store, showing your cooperation with the Clark County District Attorney's Office. Not only will this put bad check writers on notice, but it may make your regular, honest customers a little more patient with your procedures. A sign is included in your packet. If you need another copy, please contact our office.
- If you take a high volume of checks, we strongly urge you to implement a photo or camera process for subsequent identification. This also acts as a strong deterrent to bad checks.
- During Christmas, back-to-school, or other busy seasons, store employees are distracted and busy, and professional bad check writers may be working in the area. Please ask your employees to use special care during these times.
- If a person's check has bounced before, do not take another check.
- Please use this manual as a resource for training employees who will be accepting checks. You should review it with them before traditionally busy seasons.

If you would like additional help, please call us.

SAMPLE FORM OF THE 10-DAY NOTICE LETTER

(Must be sent to check writer by certified mail only)

*ABC BUSINESS
1234 AnyStreet
Las Vegas, NV 89101*

July 7, 2003

Ms. Jane Doe
5678 S. First Street
Las Vegas, NV 89101

Re: Your check, no. 107, drawn on the Second National Bank, dated June 28, 1995, in the amount of \$53.17, payable to ABC Business.

Dear Ms. Doe:

This above listed check, drawn on your account, has been returned to us by your bank marked, "insufficient funds (or other reason)." Pursuant to NRS 205.130, issuing or passing a check, knowing that there are not sufficient funds in the account to pay the check, is a criminal offense.

This letter constitutes your ten (10) day written notice that your check was returned marked "Insufficient Funds" as provided by Nevada law. Unless you make restitution on this check by July 17, 2003, we will submit this matter to the Clark County District Attorney for legal action. Restitution within the next ten (10) days should be made directly to the undersigned.

Sincerely,

Business Owner
Business Name
1234 AnyStreet
Las Vegas, NV 89101

EJEMPLO DE LA CARTA DE AVISO DE 10 DIAS
(Debe ser enviada al autor del cheque únicamente por correo certificado)

*ABC BUSINESS
1234 AnyStreet
Las Vegas, NV 89101*

Julio 7, 2003

Sra. Juana Doe
5678 S. First Street
Las Vegas, NV 89101

Referente: A su cheque, numero 107, girado por el banco Second National Bank, fechado Junio 28, 2003, por la cantidad de \$53.17, pagadero a ABC Business.

Estimada Sra. Doe:

El cheque citado arriba, girado en su cuenta, a sido regresado a nosotros marcado, “fondos insuficientes”. De acuerdo al NRS 205.130, emitir o aprobar un cheque, sabiendo que no hay suficientes fondos en la cuenta para pagar ese cheque, es una ofensa criminal.

Esta carta constituye su aviso de diez (10) días por escrito que su cheque fue regresado marcado “fondos insuficientes”, según lo establece la ley de Nevada. A menos de que usted pague restitución de este cheque para el día 17 de Julio, 2003, someteremos este asunto a la Oficina del Fiscal del Distrito del Condado de Clark para una acción legal. La restitución en los siguientes diez (10) días, deberá ser pagada directamente al abajo firmante.

Sinceramente,

Business Owner
Business Name
1234 AnyStreet
Las Vegas, NV 89101